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V.S.I

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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IM62/0709  
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EXAMINER

GRAY, L

ART UNIT	PAPER NUMBER
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1734

DATE MAILED:

07/09/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/899,434

Applicant(s)

Johnson

Examiner

Gray, Linda L.

Group Art Unit

1734

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 7-24-97, 7-30-98, and 3-1-99.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-3 and 8-15 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-3 and 8-15 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 3-1-99 is ☒ approved ☐ disapproved.
- ☒ The drawing(s) filed on 3-1-99 is/are objected to by the Examiner.
- ☒ The specification is objected to by the Examiner.
- ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of References Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

## **DETAILED ACTION**

### **Oath/Declaration**

1. The declaration is defective. A new declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required, MPEP §602.01 and §602.02. The declaration is defective because the filing dates of 60/036,186 and 60/035,051 are incorrect.

### **Priority**

2. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows: The second application (which is called a continuing application) must be an application for a patent for an invention which is also disclosed in the first application (the parent or provisional application). The disclosure of the invention in the parent application and in the continuing application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112, In re Ahlbrecht, 168 USPQ 293 (CCPA 1971).

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 1 and 8-14 of this application. Claim 1, support is not found for a tape cutter assembly for cutting the tape, a vacuum belt means for advancing the sections, and a tape sealing mechanism for applying pressure and heat to the sections. Also, support is not found for the limitations directed to the vacuum belt means (claims 9-11, 13-14), the tape cutter assembly (claim 12), and ultrasonic sealing (claim 8).

### **Drawings**

3. The drawings are objected to because of the following reasons: **One**, the following signs point to the incorrect location: **(a)** 360 at the top, 430 above 1267, 1090 (Fig 1), **(b)** 420 (Fig 2), **(c)** 900, 960 (Fig 12), **(d)** 2004 (Fig 18), **(e)** 2152 (Fig 20A), **(f)** 2116 (Fig 25), **(g)** 2038 (Fig 27), **(h)** 2038, 2044, 2047 (Fig 28), **(i)** 2047 (Fig 30), **(j)** 410 (Fig 32), and **(k)** 12,1 4 (Fig 45). **Two**, sign 2146 points to a first location in Figure 34, a second location in Figure 35, and a third location in Figures 36-38. **Three**, sign 2043, Figure 18, should be 2041. **Four**, sign D, Figure 48, along the bottom should be D'. Correction is required.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference signs not mentioned in the description: **(a)** 21 (Fig 1), **(b)** 755 (Fig 10, 11), **(c)** 990 (Fig 14), **(d)** 1015 (Fig 15), **(e)** V' (Fig 17), **(f)** w'', **(g)** w'' (Fig 19), **(h)** 16 (Fig 19) [note: sign 16 in the description is for end 16 in Fig 44], **(i)** 211 (Fig 20A), **(j)** 2057 (Fig 20A), **(k)** 2061 (Fig 32), **(l)** 2160 (Fig 35, 37), **(m)** 3090 (Fig 39A), **(n)** 5006 (Fig 43), **(o)** 2 denoting a cross section (Fig 44) [note: sign 2 in the description is for an end 2 in Fig 44-45], **(p)** 155 (Fig 48), **(q)** 158' (Fig 48-49), **(r)** 180 (Fig 56), **(s)** 400 (Fig 56) [note: sign 400 in the description is for a control device in Fig 1], **(t)** 243 (Fig 56), and **(u)** 3' (Fig 57). Correction is required.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not

include the following reference signs mentioned in the description: **(a)** 12 [note: when used to define a seal and not phantom lines 12 in Fig 54], **(b)** 32 [note: when used to define a web and not a cylinder in Fig 46], **(c)** 70 [note: when used to define a dotted line and not an aperture in Fig 54], **(d)** 105, **(e)** 150 [note: when used to define nip rollers and not tape 150 as in Fig 56], **(f)** 160, a motor and 160, a punch device, **(g)** 170, **(h)** 180 [note: 180 in Fig 56 is not air], **(I)** 200 [note: when used to define a cut and not a loop side as in Fig 4 or an apparatus as in Fig 56], **(j)** 245, **(k)** 310, **(l)** 520 [note: when used to define a dancer and not an arm as in Figure 2], **(m)** 600, **(n)** 710, **(o)** 775, **(p)** 832, **(q)** 1000, **(r)** 1005, **(s)** 1070, **(t)** 1140, **(u)** 1160, **(v)** 1202, **(w)** 1220, **(x)** 2056', **(y)** 2063, **(z)** 2065, **(aa)** 2113-17, **(bb)** 2129A, **(cc)** 2148, **(dd)** 2155, **(ee)** 2183, **(ff)** 2210 [note: when used to define a barrier and not a first extruded base tape as in Fig 41], **(gg)** 2567, **(hh)** 5005, and **(ii)** 72 [note: when used to define a bilaminate and not an aperture as in Figure 54 or an upper grip as in Fig 57]. Correction is required.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because of the following reasons: **(a)** 2 designate "an end" and "a cross section" (Fig 44), **(b)** 12 designates "a seal" and "phantom lines", **(c)** 32 designate "a web" and "a cylinder", **(d)** 70 designates "an aperture" and "a dotted line", **(e)** 72 designates "an aperture", "a bilaminate", and "an upper grip part", **(f)** 74 designates "a end" and "an arrow", **(g)** 76 designates "storage volume" and "an end", **(h)** 80 designates "temporary storage" and "a seal", **(I)** 150 designates "nip rollers" and "a tape", **(j)** 160 designates "a motor" and "a punch device", **(k)** 180 designates "air" and "an item in Figure 56" not yet defined, **(l)** 200 designates "a cut", "a loop side", and "an apparatus", **(m)** 202 designates "a second step" (Fig 3) and "a web", **(n)** 520 designates "a dancer" and "an arm", **(o)** 2045 designates "an arrow" and "an end", **(p)** 2056 designates "a vacuum" and "a seal", **(q)** 2058 designates "a seal" and "a top end", **(r)** 2059 designates "a seal bar" and "a bottom end", **(s)** 2162 designates "a seal bed" and "a seal", and **(t)** 2210 designates "a first extruded base tape" and "a barrier". Correction is required.

7. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed.

### **Specification**

8. The disclosure is objected to because of the following informalities: **(a)** 110 should be 100 (p 15, L 9; 17, L 2), **(b)** 1A should be 1 (p 15, L 21), **(c)** 100 (second) should be 110 (p 17, L 6), **(d)** 1070 should be 1110 (p 23, L 5), **(e)** delete 1265 (p 23, L 18), **(f)** 2004 is incorrect (p 25, L 13), **(g)** 2018 should be 2014 (p 28, L 9), **(h)** the drawings are not colored photographs (p 28, L 11), **(I)** 403 is incorrect (p 30, L 5), **(j)** 2047 should be 2179 (p 30, L 19), **(k)** 2130 is incorrect (p 31, L 10), **(l)** 2130G is incorrect (p 31, L 14 and 21), **(m)** 2130B is incorrect (p 31, L 22), **(n)** 2109 should be 2109A (p 32, L 1), **(o)** 2056 (first) should be 2056' (p 32, L 23), **(p)** 2154 is incorrect (P 34, L 23), **(q)** 1140 2200 is incorrect (p 36, L 3), **(r)** 2210 should be 2206 (p 36, L 16 and 18), **(s)** 2210 should be deleted (p 36, L 19), **(t)** 2056 should be 2032, 2154 (p 37, L 17), **(u)** 1140 should be 2138 (p 37, L 20 and 22), **(v)** insert "2058," before 2060 (p 39, L 5), **(w)** 2043 should be 2041 (p 27, L 6), **(x)** 100A in the disclosure should be 270, **(y)** 114 in the disclosure should be 280, and **(z)** 2000 should be 2200 (p 36, L 2). Appropriate correction is required.

9. The use of the trademark DELRIN (p 32, L 8) has been noted in this application. It should be

capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the trademarks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Also, see TEFLON (p 32, L 11).

**10.** Applicant is reminded of the proper language and format for an abstract of the disclosure: The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

**11.** The abstract of the disclosure is objected to because of the following reasons: **(a)** "The present invention includes" (L 1), **(b)** "of the present invention" (L 15), MPEP §608.01(b). Correction is required. Also, it is suggested that 2001 (L 3) and 220 (L 14) be deleted since the abstract does not contain any other numbers for the other significant portions of the apparatus

**12.** The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: An Apparatus for Applying Tape with Fastener Profiles to a Web.

### **Claim Objections**

**13.** Claims 2-3 and 11-12 are objected to because of the following informalities: **Claim 2**, **(a)** "seal" (L 2) should be "reel" and **(b)** "discard" (L 4) should be "descent". **Claim 3**, **(a)** "tensional" (L 2) should be "tensioned", **(b)** "synchronizes" (L 3) should be "synchronizer", **(c)** "tensioned" should be deleted (L 3), and **(d)** "and a" (L 7) should be "said" and "registration" (L 7) should be "position" although reference to the tape registration assembly for adjusting is not necessary in claim 3 since such is already recited in claim 1 from which claim 3 depends. **Claim 11**, "means" should be inserted after "belt" (L 7 and 11). **Claim 12**, **(a)** "extended" (L 8) should be "lowered" and **(b)** "means" should be inserted after "belt" (L 12). Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

**14.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**15. Claims 1-3 and 8-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.**

**Claim 1**, "profiles" (L 3-4 and 6-9) renders claim 1 indefinite because such indicates plural profiles where line 2 of claim 1 indicates that there can be just one profile. Plural profiles are not required to warrant the use of "profiles" later in claim 1. **Claim 1**, "desired" (L 9) is a relative term which renders claim 1 indefinite. The term "desired" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Also, see "desired" in **claim 13**, line 5. **Claim 1** indicates means for delivering tensioned tape from the means for dispensing the tape to the tape applicator apparatus. However, the tape applicator apparatus is the portion of the apparatus which applies the cut pieces of tape, cut from the tensioned web, to the web for sealing thereto by the tape sealing mechanism. Thus, the means for delivering the tensioned tape cannot be for delivering such to the tape applicator apparatus. **Claim 2** indicates that the tension of the unwind reel is controlled in response to the rise and descent of the tension arm. It is not clear how there can be tension in a reel which is then controlled. **Claim 3**, "said tape application" (L 4) renders claim 3 indefinite because there is insufficient antecedent basis for this limitation in claim 3. **Claim 3**, "rollers" (L 5, 9) renders claim 3 indefinite because such indicates plural rollers when line 5 of claim 3 indicates that there can be just one roller. Plural rollers are not required to warrant the use of "rollers" later in claim 3. **Claim 3**, the antecedent of "said rollers" (L 6-7) is unclear. Are these the rollers of the dancer or the film synchronizer? **Claim 8** indicates acting upon the tape sections (which are made by cutting the tape) before the tape is cut. This does not appear possible. **Claim 9**, "said nip rollers" (L 4) renders claim 9 indefinite because there is insufficient antecedent basis for this limitation in claim 9. Also, see **claim 11**, line 6 and 12, where "nip rollers" is recited. **Claim 9**, "driving portion of said apparatus" (L 5-6) renders claim 9 because it is unclear what this phrase means or adds to claim 9. **Claim 9**, "relative positions" (L 5) renders the claim indefinite because "relative" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention -- i.e., relative to what. **Claim 11**, "said nip roller" (L 6-7) renders claim 11 indefinite because there is insufficient antecedent

basis for this limitation in claim 11. **Claim 13**, it is unclear what is meant by "plastic" electricity. The specification indicates elimination of "static" electricity caused by the moving web. **Claim 13**, "slick" (L 6) is a relative term which renders claim 1 indefinite. The term "slick" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. **Claim 15** indicates that the tape with the pair of interlocked profilers is attached to the web. However, it is clear from claim 1 that the a cut section of tape is applied to the web and not the tape before it is cut.

### **Claim Rejections - 35 USC § 103**

**16.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**17. Claims 1, 8, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodolay et al. (5,776,045) in view of Bois (5,884,452) and Schroth et al. (4,608,115).**

**Claim 1**, Bodolay et al. teach an apparatus for dispensing, applying, and sealing individual fastener profiles 57 across a portion of web 14 including:

- (a) dispensing means 32 for web 34 of a fastener profile,
- (b) tape cutting assembly 36 for cutting web 34 into profiles 38 which are later heated to become profiles 57,
- (c) belt means 40 for advancing profiles 38/57 into a position across web 14,
- (d) applicator apparatus including sealing mechanism 28 for applying pressure and heat to profiles 57 to seal profiles 57 to web 14, and
- (e) means 22 for sequentially advancing web 14.

The combination of web 14 and profiles 57 is then sent to a machine for forming, filling, and closing a reclosable bag (c 3, L 12, to c 7, L 15).

The difference between Bodolay et al. and claim 1 is that Bodolay et al. do not teach **(a)** that web 34 is, instead of just a fastener profile, a tape having profiles 38 thereon such that assembly 36 cuts the tape into sections and the tape is sealed to web 14, **(b)** that web 14 is thermoplastic, **(c)** that means 40

also includes a vacuum, and **(d)** a means to tension the tape as it is removed from dispensing means 32, including a registration assembly and a drive assembly.

For **(a)**, Bois teaches an apparatus for dispensing, applying, and sealing web 3 of a fastener profile to web 1 to make a reclosable bag, as shown in Figure 1, and Bois considered this teaching to be prior art to the disclosed invention in the patent. Bois further teaches the use of web 3 of a fastener profile to be very difficult to operate -- requiring regular attention (c 1, L 14-51). As an improvement, Bois teaches attaching an individual piece of tape to the web used to make the bag, before filling, where the pieces of tape have a fastener profile thereon. Thus, Bois teaches tape/fastener-sections as an improvement of fasteners alone (c 1, L 56, to c 4, L 3).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al. that web 34 is, instead of just a fastener profile, a tape having profiles 38 thereon such that assembly 36 cuts the tape into sections and the tape is sealed to web 14 because Bois teaches that tape/fastener-sections are an improvement over fasteners alone, where Bodolay et al. teach fasteners alone, where the combination will provide for a less difficult operation requiring less attention as suggested by Bois, and it is obvious to replace one fastener profile (Bodolay et al., fastener profile alone) with another art improved fastener profile (tape/fastener-section, Bois).

For **(b)**, Bois teaches web 1 to be thermoplastic (c 1, L 59-66).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al. that web 14 is thermoplastic because Bois teaches in the same art that such a web material is conventional and it is obvious to replace one web material (Bodolay et al., material of web 14 not disclosed) with another art recognized web material (Bois, thermoplastic) used for the same purpose (to make a reclosable bag therefrom).

For **(c)**, Schroth et al. teach delivering cut pieces of web 16/18 to a bonding station to apply such to web 22. The pieces are delivered on roll conveyor 4 which includes a vacuum to help keep the pieces in place (c 4, L 41, to c 5, L 26; c 10, L 49, to c 12, L 10).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al. that means 40 also includes a vacuum because Schroth et al. teach



using a vacuum with a conveyor to help hold cut pieces of a web in position such that a vacuum included in means 40 will operate to enhance securement of profiles 38/57 to means 40.

For **(d)**, it is convention provide a means to tension a continuous web material as such is deliberately removed from a supply means in order to prevent the material from sagging during delivery -- causing a detrimental effect on the cutting and delivery process -- where the means to tension controls the position of the web and pulls the web for delivering.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al. a means to tension the tape as it is removed from dispensing means 32, including a registration assembly and a drive assembly, as is conventional in the art of delivering continuous web material from a supply to prevent sagging during delivery -- causing a detrimental effect on the cutting and delivery process.

With respect to the claim limitation that the tape is thermoplastic, it is conventional to use thermoplastic tape when heat and pressure sealing such to a thermoplastic material such that the two thermoplastics will intermingle well as the sealing sight. It would have been obvious to person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., in view of Bois, that the tape is thermoplastic such that the tape and web 14 will intermingle well at the sealing sight.

**Claim 8** [note: this is made in view of the rejection under 35 U.S.C. 112, second paragraph in that the limitation is not completely understood], Bodolay et al. teach sealing the distal ends of profiles 38 after cutting and before application to web 14 such that sealing in this manner would still occur even if profiles 38 are supported on a tape. **Claim 15**, Bois teaches that the tape includes a folded loop having a pair of interlocked fastener profiles 110/112 attached thereto on the inside surface thereof. Thus, the modification of Bodolay et al. with Bois also suggests using a tape that provides this type of tape/fastener-section arrangement after cutting since this is the arrangement suggested by Bois.

**18. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bodolay et al. in view of Bois and Schroth et al. as applied to claims 1, 8, and 15 above, and further in view of Rajala (5,659,229).**

**Claim 2**, Bodolay et al., modified, teach, for the means for dispensing, pivotally mounting the tape on unwind reel 32 and pulling from reel 32 by a drive including motors 35 and 37 where motors 35 and 37 control tension (c 4, L 32-37).

The difference between claim 2 and Bodolay et al., modified, is that Bodolay et al., modified, do not teach that reel 32 is powered and a tension arm holding the tape which rises and falls in response to tension

in the tape where the unwind speed of reel 32 occurs in response to this rise and fall.

Rajala teaches reel 12 which is powered by motor 14 and tension arm 24 holding web 18 which rises and falls in response to tension in web 18 where the unwind speed of reel 12 occurs in response to this rise and fall (c 7, L 32 to c 8, L 8).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., modified, that reel 32 is powered and a tension arm holding the tape which rises and falls in response to tension in the tape where the unwind speed of reel 32 occurs in response to this rise and fall because Rajala teaches that such allows one to accurately control tension in a continuously moving web, where the web of Bodolay et al., modified, is continuously moving, and it is obvious to replace one means of dispensing and tension control (Bodolay et al., reel 32 with motors 3 and 37) with another are recognized means for dispensing and tension control (Rajala).

**19. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bodolay et al. in view of Bois and Schroth et al. as applied to claims 1, 8, and 15 above, and further in view of Martin (3,659,767).**

**Claim 3**, the difference between claim 3 and Bodolay et al., modified, is that Bodolay et al., modified, does not teach that the means for tensioning the tape occurs using dancer rollers and a film synchronizer of one or more vertically adjustable rollers which adjust in response to the tension and the pulling is caused by nip rollers in response to the position of the dancer rollers and the adjustable roller(s).

Martin teaches advancing a web from roll 16 where advancing includes a means for tensioning the web including a dancer roller 42 and film synchronizer 32 of vertically adjustable roller 70 (or more than one roller) which adjust in response to the tension and the pulling is caused by nip rollers 46, 46, and 50 in response to the position of rollers 42 and 52 in that such responds to roller 52 which responds to tension changed by roller 42 (c 2, L 20, to c 6, L 14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., modified, that the tensioning occurs using dancer rollers and a film synchronizer of one or more vertically adjustable rollers which adjust in response to the tension and the pulling is caused by nip rollers in response to the position of the dancer rollers and the adjustable roller(s)

because Martin teaches that such allows one to accurately control tension in a continuously moving web, where the web of Bodolay et al., modified, is continuously moving, and it is obvious to replace one means of tension control (Bodolay et al., modified) with another are recognized means for tension control (Martin).

With respect to the claim limitation of using more than one dancer roll, MPEP §2144.04(f) refers to In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) which indicates that the mere duplication of parts (i.e., more than one dancer roll) has no patentable significance unless a new and unexpected result is produced, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., modified, two or more dancer rollers because the duplication of parts requires only ordinary skill in the art and is a matter of routine expedients.

**20. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bodolay et al. in view of Bois and Schroth et al. as applied to claims 1, 8, and 15 above, and further in view of Kühnhold et al. (5,413,656).**

**Claim 12**, the difference between Bodolay et al., modified, and claim 12 is that Bodolay et al., modified, does not teach specifics of assembly 36. Specifically, Bodolay et al., modified, do not teach that assembly 36 includes an air piston mechanism having a shaft that moves in and out by the piston, a blade and clamp on the shaft for cutting and clamping the tape, and a slidable die on the opposite side of the tape having a slot and a spring loaded stripper near the slot where the clamp pushes on the stripper during cutting where the stripper pushes back after cutting.

Kühnhold et al. teach web cutting assembly 10 including a mechanism (box below shaft 15) having shaft 15 that moves in and out by the mechanism, blade 14 and clamp 17/18 on shaft 15 for cutting and clamping web 4, and die 9 on the opposite side of web 4 having a slot and stripper 11/12 near the slot where clamp 17/18 pushes on stripper 11/12 during cutting (c 2, L 66, to c 3, L 35).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., modified, that assembly 36 includes a mechanism having a shaft that moves in and out by the mechanism, a blade and a clamp on shaft for cutting and clamping the tape, and a die on the opposite side of the tape having a slot and stripper 11/12 near the slot where the clamp pushes on the stripper during cutting because Kühnhold et al. teach that such is conventional in the art of cutting a continuous web and it is obvious to replace one cutting means (Bodolay et al., modified, specifics undisclosed) with another art recognized cutting means (Kühnhold et al.) used for the same purpose of

cutting a continuous web. Although assembly 10 of Kühnhold et al. only perforates, Bodolay et al. teaches complete cutting which therefore dictates that complete cutting will still occur, not perforating, even after modification since one skilled in the art would not destroy the process of Bodolay et al. by perforating.

With respect to the claim limitations of the shaft moving mechanism being an air piston and the die being slidable with a spring loaded stripper, air pistons are conventional in the art as a means for moving a knife to-and-fro for cutting, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., modified, that the shaft moving mechanism is an air piston because it is obvious to replace one shaft moving mechanism (Bodolay et al., modified) with another art recognized shaft moving mechanism (air piston). Also, slidable dies with a spring loaded stripper are conventional for ensuring that the die pushed back well against the knife and clamp to ensure a clean cut and clean separation of the knife from the web, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bodolay et al., modified, that the die is slidable with a spring loaded stripper to ensure that the tape is cut cleanly and that the tape is cleanly separated from assembly 36.

### **Prior Art of Record**

**21.** The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: **(a)** McMahon et al. (US 4,909,017) teach attaching paired fasteners to a web in a vertical fill-and-seal machine and **(b)** Yeager (US 5,461,845) teach supplying a web having thereon paired of fasteners.

### **Allowable Subject Matter**

**22.** Claim 9-11 and 13-14 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**23.** The following is a statement of reasons for the indication of allowable subject matter: The primary reason for the indication of allowable subject matter in **claim 9** is that the prior art does not teach or suggest interconnecting, using a belt drive, the vacuum belt means, the tape registration assembly, and the tape cutter assembly for maintaining speed of operation of each of these elements and for maintaining the position of the tape and the cut pieces of tape. The primary reason for the indication of allowable subject matter in **claim 13** is that the prior art does not teach or suggest use a vacuum belt having a plurality of holes extending therethrough where the belt is rotatably mounted on a pair of rollers, where one of the rollers is powered so as to cause rotation of the belt and incremental advancement of the belt, and where

a ledge is provided which extends below the belt constructed of a thermoplastic elastomer and sized and positioned so as to serve as a barrier to air from the web moving thereunder and as an eliminator of static electricity.

**24.** Since allowable subject matter has been indicated, Applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

**25.** As allowable subject matter has been indicated, Applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with, 37 CFR 1.111(b) and MPEP §707.07(a).


### **Response Section**


**26.** Appendices A-E: Applicant's submitted copy of the postcard receipt is noted. Appendices A and B: The substitute specification has been entered. Appendices C, D, and E: The proposed drawing correction (proposed corrections in Appendix D which propose corrections to the drawings in Appendix C which replace the drawings as originally filed) filed on 7-30-98 (again on 3-1-99) have been approved. The formal drawings in Appendix E, which include the proposed corrections of Appendix D, are objected to as discussed in this Office action above.

With respect to Applicant's comment on page 3 of the response filed 3-1-99, fourth paragraph, the record illustrates that a petition was not filed for entry of color photographs, and Applicant confirms such. With respect to Applicant's comment on page 3 of the response filed 3-1-99, the grouping of claims 81 and 82 in the restriction requirement is moot since these claims have been canceled. The amendments filed 7-30-98 were entered.

### **Conclusion**

**27.** Any inquiry concerning this communication or earlier communications should be directed to Examiner Linda L. Gray at (703)308-1093, Monday-Friday from 8:00 am to 4:30 pm. The necessary fax numbers are (703)305-7718 (official faxes), (703)305-7115 (unofficial faxes), and (703)305-3599 (faxes after final Office action).

llg   
July 6, 1999

  
Linda L. Gray  
Patent Examiner  
Art Unit 1734